only one peon who has to take letters and who has to finish the work at the end of the day, so that we are unable to get all letters in time although the train reaches Kottarakara at night. We are able to get letters sometimes only at 11-30 on next day, because there is only one peon. Other peons have to go to mofussil parts which are 7 and 8 miles in distance, in some cases 12 or 14 miles. So, in this way the work of the Anchal Office has increased.

MR. M. SIVATANU PILLAI (*Tovala*): Does the member know that this demand is for the increase of clerks and not of peons?

MR. C. P. KOCHUKUNJU PILLAI (*Kottarakara* cum *Kunnattur*): We know practically in some offices these peons also work in the offices as the number of clerks is not sufficient; so much so that all peons are not sent out in time. That is what is practically done in most of the offices. Although I join hands with Mr. A. K. Pillai in opposing the motion on different grounds, so far as this expense is considered, it is absolutely necessary to give additional hands to this particular Anchal Office. I belong to Kottarakara and I know the conditions of the Anchal Office there fully. So, I support this grant.

MR. N. NILAKANTA PILLAI (*Secretary to Government*): I have hardly anything to say, because the merits of the case which I preferred, have not been questioned. As for the attitude which the members on the other side of the House are advised to assume, I may perhaps be permitted to say that it is hardly justifiable. Cases are dealt with, generally, by this House on *their* merits.

The grant was put to the vote and declared carried.

LEGISLATION.

THE TRAVANCORE MINES AND MINERALS BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, the Travancore Mines and Minerals Bill as reported by the Select Committee has to be taken up for further consideration. We have done with 41 clauses in the last Session. I now beg to move that the consideration of the Bill be continued.

MR. K. N. RAMASUBBA AIYAR (*Financial Secretary to Government*): I beg to second the motion.

The motion was carried.

Clause 42.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): The motion is with respect to the clause as it stood in the Bill published in the Gazette that it be deleted and in its place the clause proposed by me be substituted. With respect to the clause as proposed originally by the mover of the Bill I see that it has been recommended by the Select Committee to be omitted and therefore much argument is not needed to substantiate that portion of the amendment. The clause that is recommended by the Select Committee to be omitted stood like this:

"If any question arises as to whether any excavation or working is a mine within the meaning of this Regulation, the Government may decide the question and a certificate signed by the Chief Secretary to Government shall be conclusive on the point."

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. K. Narayana Pillai.]

That is the clause that has been omitted. That portion of the report of the Select Committee has been accepted by my friend and I need not labour the point further. In the stead of that clause, I propose the following be substituted; and that as Clause 42 at the end of Chapter VIII, not at the beginning of Chapter IX; but at the end of Chapter VIII dealing with penalties and procedure. Therein I maintain that a clause of the kind that I am proposing is necessary.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Before the member proceeds to move the amedment, I rise to a point of order, Sir. The amendment proposed is beyond the scope of the clause. Standing Order No. 24 says:

"(1) An amendment must be relevent to and within the scope of the subject matter of the clause or motion to which it relates."

This Clause 42 as reported by the Select Committee reads thus:

"The Government may, by a notification in the Gazette, exempt any local area or any mine or group or class of mines or any part of a mine or any class of persons from the operation of all or any specified provisions of this Regulation."

The clause that is proposed to be substituted has absolutely nothing to do with the existing Clause 42 and therefore I submit that Standing Order 24 applies and that this amendment is out of order.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I submit what I have to say and then I shall meet my friend's objection. I shall introduce the amendment first.

PRESIDENT: You cannot introduce the amendment until the objection of the Law Member is met.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): My friend cannot raise a point of order until the amendment is before the House. The amendment has not been overruled by the President. It has been printed and placed before the House. I am at liberty to place it before the House and then my friend is at liberty to oppose it with as much vehemence as he is capable of. But before that he is not at liberty to urge that it should not be listened to.

PRESIDENT: You have to make it clear to which clause you propose to move your amendment.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): With respect to that if the President is prepared to hear me on the preliminary objection, I am prepared to set forth my arguments.

PRESIDENT: Yes.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): My motion is that the clause in the original Bill has to be deleted. And then I say that another clause has to be introduced in its place, not as a portion of Chapter IX which deals with a different subject, but as a portion of Chapter VIII.

PRESIDENT: Then you are bringing an entirely new matter.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Yes.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Whatever way we look at it, this is beyond the scope of the clause to which it relates. It is a new matter.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): It is a new matter pertaining to the previous Chapter.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): May I know whether it is not an amendment to the Bill?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): It is an amendment to the Bill. It is not an amendment to this particular clause. That I indicate clearly by saying that it is to be tacked on as a part of Chapter VIII.

PRESIDENT: Have you given notice of the amendment?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Yes. And it has been printed and circulated. I have particularly stated there, "Delete the whole clause and substitute the following as Clause 42 at the end of Chapter VIII." That cannot be mistaken. It has to be sustituted as a part of Chapter VIII. It is an additional clause that I want to incorporate.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): Is not addition or substitution of a clause an amendment to the Bill?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Certainly. We make additions to the Bill. They are all amendments. Rules and Standing Orders do not speak of additions but only of amendments. So my submission is that with respect to the Chapter on penalties and procedure this may be added on as Clause 42.

MR. G. RAMAN MENON (*Mavelikara cum Kartikapalli*): Is not addition also an amendment?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): That is what I am maintaining. The only way to refer to it is to call it an amendment. Hence I say as part of Chapter VIII this could be inserted. My amendment is this. At the end of Chapter VIII substitute the following as Clause 42.

Chapter VIII deals with penalties and procedure. Chapter IX deals with a different matter. It was with respect to Clause 42 as it originally stood in the Bill I said that it be deleted.

Therefore I think I have sufficiently indicated the object of the amendment to show that nobody is taken by surprise. The additio to a particular portion of the Bill is equally an amendment, and the amendment proposed by me is quite in form.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Mr. P. K. Narayana Pillai admits that it is a new matter. Then the question is to which clause it will be an amendment.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): May I know whether we are amending clauses or *the Bill?*

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): We are amending the clauses and that is Mr. Narayana Pillai's motion. My motion before the House was that the Bill as reported by the Select Committee be taken up over for further consideration. That has been granted by the House and so certainly new clauses cannot be brought in beyond the scope of the Bill.

MR. S. PIRAVIPERUMAL PILLAI (*Commerce and Industry, South*): May I point out that the heading is "Amendment proposed to the Travancore Mines and Minerals Bill" and not clauses.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I say that the Bill as reported by the Select Committee is under consideration and new clauses may be added provided it can be put in as a relevant clause in the Bill but any clause that goes beyond the scope of the Bill will be out of order.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): May I draw the attention of the Law Member to Standing Order No. 38 which says:

"that when a motion has been agreed to by the Council that a Bill be taken into consideration, any member may propose an amendment of such *Bill.*"

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, true.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Under that Standing Order is not a member entitled to bring in an amendment to the Bill?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, not any amendment, because there is the general Standing Order regarding the scope of amendments. Further there is Standing Order 37 which lays down the proper procedure when quite new clauses are wanted. It says:

"(1) After the presentation of the final report of the Select Committee on a Bill the member in charge may move"

"(i) that the Bill *as reported by the Select Committee be taken into consideration*, but any member may object to its being so taken into consideration if a copy of the report has not been available for the use of members for seven days, or if three months have not elapsed from the date of the first publication of the Bill; and such objection shall prevail unless the President in the exercise of his power to suspend this order allowing the report to be taken into consideration; or"

"(ii) that the Bill be re-committed either
(*a*) without limitation, or
(*b*) with respect to particular clauses or amendments only, or
(*c*) with instructions to the Select Committee to make some particular or additional provision in the Bill."

"(2) If the member in charge moves that the Bill be taken into consideration, any member may move as an amendment, that the Bill be re-committed".

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Does the Standing Order No. 37 forbid an amendment of the Bill by member?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Any amendment may be brought provided it is within the scope of any of the clauses in the Bill as reported by the Select Committee.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Granting that this amendment cannot go strictly under Clause 42, is it open to have it as a separate clause in the Bill?

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May be, if it is within the scope of the Bill as reported by the Select Committee, but so far as Clause 42 is concerned the amendment is out of order.

With your permission, Sir, I have to say one word more. Mr. P. K. Narayana Pillai has admitted that the amendment is a new one. It is also a very far-reaching one. By that clause he wants to make Government liable for the tortious acts of their servants. So it will be readily seen what a fundamental change in legal principles is sought to be embodied.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I submit a word in reply to what my friend had to say?

PRESIDENT: Yes.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): My friend's objection is that the amendment should be in keeping with the purport and the scope of the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): And the scope of the clauses of the Bill.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): 'Even the scope of the clauses of the Bill' as he would put it. Chapter VIII of the present Bill provides various penalties and various methods of procedure to be adopted by officers and citizens of the State. Along with that question will have to be considered the question of any misstep taken by an officer of the department concerned in the working of the Regulation. There should be recourse against the officer of the department or against Government if the Government would unnecessarily expose themselves for any action or step taken by the officer in question. Such a safeguard is absolutely necessary especially so in view of the very large powers given to the department concerned in this particular Regulation for they have been given powers to undermine people's houses on suspicion that there may be found some sort of mineral which they want to exploit. If, taking advantage of the existence of such large powers vested in it, a particular department or an officer is going to misbehave there must be some sort of restraint against that officer in the interests of the safety and freedom of the citizens of the State.

MR. KAYALAM PARAMESVARAN PILLAI (*Addtional Head Sirkar Vakil*): We have got provision for that in Clause 44 of the Bill.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): That is exactly what I have provided here. Therefore, it is not beyond the scope of the Bill as is provided in Clause 44. Then what objection can possibly be said or raised with respect to my amendment on the ground that it is beyond the scope of the Bill. The Law Member himself now says that it is in the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): What is in the Bill is with respect to the officers under Government and not the Government themselves.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): If Government deputes an officer to undermine, why not they hold themselves responsible? The Government should certainly be manly.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is going into the merits of the amendment.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): It is to cover those cases of waywardness on the part of the department or the action of Government that I wish to move such an amendment. I therefore point out that so far as the objection raised on the ground that it does not fall within the scope of the Bill, it is absolutely groundless. That is all that I have to submit.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): The amendment proposed by Mr. P. K. Narayana Pillai is a very important one in the interests of persons who are to be affected by this Bill. The Law Member raises a technical objection against considering this amendment.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Is he speaking on the point of order?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Yes, I am speaking on the point of order. The Law Member objects to the consideration of this amendment on the ground that the amendment of a clause alone can be brought at this stage and not the amendment of the Bill as a whole. Even granting this view the clause that Mr. Narayana Pillai wants to delete is Clause 42 as published in the Gazette which reads thus:—

"If any question arises as to whether any excavation or working is a mine within the meaning of this Regulation, the Government may decide the question, and a certificate signed by the Chief Secretary to Government shall be conclusive on the point."

This Clause 42 therefore has got reference to the question of determining any dispute that may occur between Government officers who are concerned in the working of the Regulation and the people whose interests are affected thereby

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That clause is not in the Bill as reported by the Select Committee.

PRESIDENT: I cannot find it anywhere in the Bill published as revised by the Select Committee.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): It is in the Bill as published in the Gazette.

MR. V. SUBBA AIYAR (*Nominated*) (*Deputy President*): We are only concerned with the Bill as revised by the Select Committee.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Under the rule the Bill as finally settled has to be printed and distributed to the members. That appears not to have been done.

MR. KAYALAM PARAMESVARAN PILLAI (*Additonal Head Sirkar Vakil*): I know it has been done not now, but about six or seven months ago.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I am not aware of that objection. My point is duly this. If Mr. P. K. Narayana Pillai

LIBRARY ARCHIVES Kerala Legislative Assembly

in sending the notice of amendment has by some oversight mentioned Clause 42 as per the original publication instead of mentioning the proper clause as per the revised Bill the matter is a simple one which the President has to condone.

PRESIDENT: You are going off the track. The point under discussion is the relevancy of the proposed amendment to any existing provision of the Bill as revised by the Select Committee.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): The amendment may have been put under Clause 42 by an oversight on the part of Mr. P. K. Narayana Pillai and if so, it is a matter for the President to condone and permit him to move.

PRESIDENT: Will you kindly note what the Law Member said immediately thereafter?

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): If it was due to an oversight on the part of Mr. Narayana Pillai, I submit that.————

PRESIDENT: Two statements were made in juxta position. You quote the one and leave the other out. I want you to withdraw the statement that printed copies were not supplied. The Law Member has said definitely that they were distributed.

MR. K. I. JOSEPH (*Minachil* cum *Devciolam*): I did not question that.

PRESIDENT: You did so. You also suggested that Mr. P. K. Narayana Pillai said that.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): I did not say that printed copies were not supplied. As a matter of fact I have myself got a copy of it. I said that Mr. P. K. Narayana Pillai said it was only not circulated and therefore it is a mistake on his part. Leaving aside that point I may say that under Standing Order No. 38, Mr. P. K. Narayana Pillai or any member is entitled to bring in any amendment to the Bill.

PRESIDENT: I cannot allow you to speak unless you speak to the point. The only point is the relevancy of the proposed amendment and the provision in the Bill as revised by the Select Committee.

MR. K. I. JOSEPH (*Minachil* cum *Devicolam*): Under Standing Order No. 38, any member can put in an amendment to the Bill and not particular clauses alone. This is the only point that I have to submit for the consideration of the President before he gives the final ruling on the matter.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): With reference to the statement that printed copies of the Bill as settled by the Select Committee have not been distributed, I have seen from Mr. Subba Aiyar that it has been done. But my file contains only the Gazette copy and I am very sorry it is upon that I said that it has not been done. I am sorry that I made a mistake in regard to that.

PRESIDENT: I will get the Secretariat to send you a fresh copy. I will consider this point, Mr. Narayana Pillai, and give you a ruling tomorrow before we start the legislative work.

The Council adjourned at 5 P. M. to meet again the next day at 11-30 A. M.

P. N. KRISHNA PILLAI,
Secretary to the Legislative Council.

LIBRARY ARCHIVES Kerala Legislative Assembly